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September 22, 2020

Hon. Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: Ibrahim Mizrahi | Case No. 18-CR-889 (JMF), USM Number 86309-054

Dear Judge Furman:

As the Court is aware, our firm is counsel to Mr. Ibrahim Mizrahi, who is scheduled to voluntarily surrender to CI Moshannon Valley on September 25, 2020. The surrender date was set on July 17, 2020, when the Court granted Mr. Mizrahi's request to extend his previous self-surrender deadline "without prejudice to an application for a further extension if the coronavirus pandemic remains a problem." Dkt. No. 82.

In light of the challenges that the global COVID-19 pandemic continues to present, we are writing to respectfully request an extension of Mr. Mizrahi's voluntary surrender date for 60 days from September 25, 2020. The Government has only consented to a 21-day extension to permit Mr. Mizrahi to set his affairs in order before surrendering, with no further extensions to follow. The Government has indicated that it intends to submit a written opposition to our request for a 60-day extension.

Despite the Government's position, Mr. Mizrahi's health and welfare, as well as the health and welfare of other prisoners, warrants extending Mr. Mizrahi's surrender date for a full 60 days.

I. Background

Mr. Mizrahi pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343. He was sentenced to 18 months' imprisonment and ordered to pay \$998,000 in restitution. Mr. Mizrahi was originally scheduled to surrender to CI Moshannon Valley on February 28, 2020, where it was anticipated that he would be placed into removal proceedings through the Institutional Hearing Program. The date was extended by 30 days, however, to allow Mr. Mizrahi time to compile documentation necessary for his immigration court hearings.

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During this same time, the United States began to experience the negative effects of the COVID-19 pandemic. Due to Mr. Mizrahi's poor physical health, the Court granted his requests for extensions of his surrender date. Mr. Mizrahi is now scheduled to surrender next Friday, September 25, 2020.

II. Request for Extension

Unfortunately, since our last request, the United States continues to struggle with combatting the spread of COVID-19. Each day the United States is reporting tens of thousands of new cases. *Covid in the U.S.: Latest Map and Case Count*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (updated Sept. 21, 2020). The death toll from the virus will soon surpass 200,000. *Id.*

Among those hit hardest by the virus has been U.S. prison inmates and detainees. According to one study, COVID-19 cases in "US federal and state prisons were 5.5 times higher—and death rates three times higher—than in the general population." Mary Van Beusekom, *U.S. Prison Inmates Among Those Hit Hard with COVID-19*, CTR. FOR INFECTIOUS DISEASE RESEARCH & POL'Y (July 9, 2020), <https://www.cidrap.umn.edu/news-perspective/2020/07/us-prison-inmates-among-those-hit-hard-covid-19>.

Outbreaks at prisons have proven very difficult to control, and have continued to occur with some frequency. See, e.g., Michael McGough, *Over 850 Inmates at Folsom Prison Have Caught COVID-19, Most of Them in Past 2 Weeks*, Sacramento Bee (Sept. 16, 2020), <https://www.sacbee.com/news/coronavirus/article245778510.html>; Arielle Zions, *Women's Minimum Security Prison Sees COVID-19 Outbreak*, RAPID CITY J. (Sept. 16, 2020), https://rapidcityjournal.com/news/local/women-s-minimum-security-prison-sees-covid-19-outbreak/article_5440c18c-e54c-580c-9129-52b7f3e14754.html.

While such outbreaks pose obvious dangers to all inmates, the dangers posed to Mr. Mizrahi are particularly high. As documented in a previously-submitted letter from Mr. Mizrahi's physician, Mr. Mizrahi suffers from asthma. The CDC cautions that "[p]eople with moderate to severe asthma may be at higher risk of getting very sick from COVID-19. COVID-19 can affect your nose, throat, lungs (respiratory tract); cause an asthma attack; and possibly lead to pneumonia and acute respiratory disease." *People with Moderate to Severe Asthma*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/asthma.html> (updated Sept. 11, 2020). This is especially true for Mr. Mizrahi, who has just recently recovered from a severe case of bronchitis.

Further, Mr. Mizrahi is a nonviolent offender, has fully complied with all terms of his supervised release, and has been given comparatively short sentence. Certainly, an 18-month sentence is serious and one that Mr. Mizrahi does not take lightly. However, it is respectfully submitted that the Court should avoid unnecessarily placing Mr. Mizrahi in harm's way of COVID-19.

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The same goes with respect to other inmates, who would be similarly placed at risk by the addition of yet another inmate if Mr. Mizrahi were to join them on September 25th. It is well-known that “[p]risons are often filled to capacity and overcrowded, which reduced the ability of inmates to social distance. Furthermore, prison living conditions are not designed for preventing the spread of a virus, especially one as apparently as contagious as the coronavirus.” Dr. Jarrod Sadulski, *Prisons Are Also Battling against the Coronavirus Pandemic*, AM. MILITARY UNIV.: IN PUBLIC SAFETY (Aug. 24, 2020), <https://inpublicsafety.com/2020/08/prisons-are-also-battling-against-the-coronavirus-pandemic/>. These challenges are only further amplified in light of the CDC’s recently updated guidance stating that coronavirus can commonly spread “through respiratory droplets or small particles, such as those in aerosols,” which are produced even when a person breathes. Naomi Thomas, *Updated CDC Guidance Acknowledges Coronavirus Can Spread Through the Air*, CNN (Sept. 20, 2020), <https://www.cnn.com/2020/09/20/health/cdc-coronavirus-airborne-transmission/index.html>.

III. Conclusion

In light of the foregoing, we respectfully request that the Court allow Mr. Mizrahi to extend the date of his voluntary surrender by 60 days from September 25, 2020 without prejudice. This extension will serve the best interest of the public welfare, Mr. Mizrahi, and other inmates in federal prisons.

We thank the Court for its attention to these matters, and are available to appear by telephone for a conference to discuss this matter further.

Respectfully submitted,

/s/ Daniel A. Schnapp

Daniel A. Schnapp
Partner

DAS

cc: All counsel by ECF

For the moment, the surrender date is extended, on consent, to October 16, 2020. The Government shall file its opposition to the longer requested extension no later than September 24, 2020. No reply may be filed absent prior leave of Court. SO ORDERED.



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